In the High Court for the States of Punjab and Haryana at Chandigarh

…

RSA No.4574 of 2004

Date of decision: 17.9.2007

Dakshin Haryana Bijli Vitran Nigam and another ... Appellants

Versus

M/s Indo Text Print Overseas Ltd. .. Respondent

Coram: **Hon'ble Mr.Justice Rajesh Bindal**

Present: Mr.Arvind Seth,Advocate
for the appellants.
Mr.Rajiv Sharma,Advocate
for respondent

..

RAJESH BINDAL,J.

The defendants are in appeal before this Court against the concurrent finding of fact by both the courts, where suit filed by the respondent-plaintiff for permanent injunction and for mandatory injunction restraining the appellant-defendants from recovering the amount of electricity duty which they were exempted from payment, in terms of the policy, was decreed.

It is not in dispute that the respondent having set up his new unit was entitled to exemption from payment of electricity duty for a period of 5 years with effect from 26.12.1992 to 25.12.1997. During this period, the claim made by the respondent was sought to be disputed on the ground that after setting up the unit initially, the respondent got his load extended and the claim for exemption on the extended load was not admissible. Both the courts below have concurrently found, on the basis of the evidence on record, that there was nothing on the file to show that the initial load of 982.200 KW was ever extended at any point of time nor the respondent/plaintiff was ever found using extended load so as to dis-entitle him for exemption from payment of electricity duty. Even after the audit objection, a letter from Chief Electrical Inspector Ex.DW1/1 was produced, which also confirmed the fact that the respondent-company was within

the sanctioned capacity and as such was entitled to avail the electricity duty exemption. Learned counsel for the appellant even before this Court could not point out any material brought on record by them to justify the claim that the load was ever extended by the respondent.

In view of my above discussions, I do not find that any illegality has been committed by the courts below in decreeing the suit of the plaintiff.

Dismissed.

September 17,2007 (Rajesh Bindal)
nk Judge